

November 9, 2001

*VIA E-MAIL*

Ms. Diane Harmon  
Assistant Bureau Chief  
Federal Communications Commission  
Address/E-mail

RE: Level 3 Communications, LLC's Efforts to Obtain an Initial Code in the  
Syracuse Rate Center in New York

Dear Ms. Harmon:

As I believe you are aware, Level 3 Communications, LLC's ("Level 3") request for an initial code in the 315 NPA Syracuse rate center has been denied by NANPA and the New York Public Service Commission ("NYPSC") because it is not LNP capable. Level 3's initial request was submitted to NANPA on October 5, 2001. Level 3 received notice that NANPA denied the request on October 18, 2001. Based upon subsequent conversations with NANPA, their denial apparently is based upon their belief that NYPSC pooling orders direct them that non-LNP/pooling capable carriers are not to be granted number resources. NANPA understood that Level 3 was not fully LNP capable and thus assumed it would not be able to participate in pooling if required and thus, should not be granted an initial code. The NYPSC staff later considered Level 3's request and confirmed NANPA's interpretation of the NYPSC orders and ultimately its decision to deny Level 3's request. Further, Level 3 has been told by Neustar Number Pooling Administration that it could not receive a 1,000 number block in the Syracuse rate center because it is not currently participating in the pool. Thus, Level 3 has effectively been denied access to the Syracuse market and is losing precious revenue dollars each day the denial remains effective. At this point there is no other stated reason for the denial other than Level 3's lack of LNP capability.

Level 3 has talked both with NANPA representatives and NYPSC staff regarding their decisions. Level 3 has pointed out the fact that the FCC Delegation Order specifically states that "non-LNP capable carriers shall have the same access to numbering resources after pooling is implemented that they had prior to the implementation of a pooling regime, *i.e.*, non-LNP capable carriers shall continue to be able to obtain full NXX codes."<sup>1</sup> However, neither NANPA nor the NYPSC seem to be persuaded by this language. NANPA has indicated that it is taking its direction from the NYPSC because it believes they are the authority that they must comply with and the NYPSC appears to be more than willing to exercise more authority over New York number resources than they have been delegated. Level 3 provided the NYPSC with a written explanation of the

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<sup>1</sup> In the Matter of New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, *Order*, CC Docket No. 96-98, NSD File No. L-99-21, FCC 99-247 (rel. September 15, 1999), at para. 15 ("*New York Delegation Order*").

technical infeasibility of LNP for Level 3's IP Packet-based network and detail regarding its work with the FCC on this issue in a letter dated August 29, 2001. A copy of this August 29<sup>th</sup> letter, the letter from the NYPSC which it responds to, and a letter sent to the NYPSC on this matter today are attached to this letter. Apparently, the NYPSC is not willing to accept Level 3's representations or rely upon the Ex Parte summaries filed with the FCC. Given the urgency of this issue to Level 3 and the seemingly blatant disregard for the law by the NYPSC, Level 3 feels compelled to seek the assistance of the FCC to enforce the language of Section 251(b)(2) of the Act and paragraph 15 of the New York Delegation Order.

Thank you for your time and consideration of this matter. Level 3 looks forward to working with you to resolve this matter as expeditiously as possible.

Sincerely,

Greg L. Rogers  
Attorney  
Level 3 Communications, LLC

Attachments

CC: Jeffrey Carlisle, Senior Deputy Bureau Chief  
Cheryl Callahan, Attorney Advisor  
Sanford Williams, Attorney Advisor